IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition . No. 1799 of 2001 (M/B)
(Old No. 12135 of 1997)

U.P. Jal Nigam,
Doon Division through Executive Engineer,
U.P.J.N. **…..** Petitioner

Versus

1. U.P. Awas Evam Vikas Parishad,
   Through Housing Commissioner,
   Property Management Vibhag,
   104, Mahatma Gandhi Marg, Lucknow.
2. Property manager,
   U.P. Awas Evam Vikas Parishad,
   Dehradun.
3. Secretary, Nagar Vikas,
   U.P. Govt., Lucknow.
4. Tehsildar, Dehradun. …Respondents

Mr. D.S. Patni, learned counsel on behalf of the petitioner.
Mr. K.S. Mehta, learned counsel for respondents No. 1 & 2.

Coram: Hon. V.S. Sirpurkar, C.J.,
Hon. Rajesh Tandon, J.

(Per Hon'ble the Chief Justice)

1. Heard Mr. D.S. Patni, learned counsel for the petitioner and Mr. K.S. Mehta, learned counsel for the respondents No. 1 & 2.

2. In this writ petition, the petitioner i.e. the U.P. Jal Nigam has claimed a relief against U.P. Awas Evam Vikas Parishad and other including the State Government that the citation issued at the instance of U.P. Aas Evam Vikas Parishad vide order dated 04.09.1996 by the Tehsildar, Dehradun should be quashed.

3. It seems that there was some dispute regarding the site transferred by U.P. Awas Evam Vikas Parishad in favour of the petitioner, U.P. Jal Nigam. It seemas that there was no accord on the question of the real price to be paid for the lands so transferred. Ultimately, it seems that though the possession was given, the petitioner had fallen in arrears and had not paid the whole

consideration as per the agreement. Ultimately, respondent No. 2 took a view that the arrears were hefty and as such, approached the Recovery Officer, who passed the impugned order dated 04.09.1996. In the writ petition, the petitioner has also suggested that there were negotiations going on and the petitioner had made representations dated 02.05.1987 and 06.01.1997 for minimizing the amounts, which were being claimed by the U.P. Awas Evam Vikas Parishad i.e. respondent No. 1 from the petitioner.

4. The matter was originally filed before the Allahabad High Court, which was transferred to this High Court since the concerned land is in the State of Uttaranchal. Today, a counter affidavit is filed, having been sworn by one Sri R.K. Gaur, who is Sampati Prabandh Adhikari posted in Dehradun. In his affidavit, he has given some history of the litigation and has pointed out that demands were made of the amount concerned. However, in paragraph 25 of the affidavit, it is reiterated that the respondent No. 1 had sent a letter No. 3845 dated 20.03.1997 requiring the petitioner to deposit Rs. 23,79,744/- and still, the petitioner had not deposited the amount and therefore, respondent No. 2 had approached the recovery officer. However, in paragraph 26 of the affidavit, it is specifically suggested that the present writ petition was for quashing the recovery proceedings of the late payment interest of Rs. 23,79,744/- and in paragraph 27, the dependent has specifically stated as under:

> "That regarding the recovery of late payment interest arrears for Rs. 23,79,744.00 before Parisad meeting dated Managing Director U.P. Jal Nigam (as member), it was finally decided to withdraw the recovery amount of late payment interest arrears, which is pending against U.P. Jal Nigam, Dehradun. A photocopy of the letter / order No. 3379/Sa.Pr.-3/13/2.98 is annexed herewith as Annexure C.A.-1 to this writ petition."

5. We also find a copy of a letter dated 13.2.1998 sent by one Vinay Kumar Srivastasva, Addl. Housing Commissioner to the Estate

Officer, wherein there is a clear reference to this amount being agreed not to be recovered from the petitioner. In view of this specific order, it is obvious that the basic dispute between these two departments of the Government has been solved. The writ petition has been pending from 1997 and we find that this order is passed on 13.02.1998, wherein there is an agreement between these two instrumentalities of the Government. This counter affidavit is not controverter by the petitioner.

6. In the writ petition, what is prayed is that the representations dated 02.05.1987 and 06.01.1997 should be decided. It is clear that a subsequent order was passed, which has the effect of the comprise of the dispute in between the parties.

7. In that view, it is declared that the writ petition has become infructuous and is disposed of as such.

(Rajesh Tandon, J.) **(V.S.Sirpurkar,C.J.)**
13.12.2004 **13.12.2004**

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